



PLANNING COMMISSION

MINUTES

April 14, 2010

7:30 p.m.

CITY OF FREDERICKSBURG
715 PRINCESS ANNE STREET
COUNCIL CHAMBERS

COMMISSION MEMBERS

Roy McAfee, Chair
Dr. Roy Gratz, Vice-Chair
Susan Spears, Secretary
Ricardo Rigual
Edward Whelan, III
Vic Ramoneda
Berkley Mitchell

CITY STAFF

Ray Ocel, Director of Planning

1. CALL TO ORDER

The April 14, 2010 Planning Commission meeting was called to order at 7:30 p.m. by Chairman Roy McAfee.

2. PLEDGE OF ALLEGIANCE

3. ADOPTION OF MINUTES

- March 24, 2010 minutes were adopted/approved as submitted.
- March 31, 2010 minutes were adopted/approved as submitted.

PUBLIC HEARING

4. **Historic Preservation Plan** – To solicit public comment on the draft 2010 Historic Preservation Plan. The Plan provides goals and initiatives for the identification, protection, and interpretation of historic buildings, districts, structures, and sites in the City. In conjunction with Chapter 12: Historic Preservation found within the 2007 Comprehensive Plan, the Preservation Plan will assist in continued identification and protection of historic resources to maintain a vibrant community that retains its character and provides for long term economic growth.

Mr. Ocel said that upon completion of the public hearing on March 10th, the Commission held the public hearing open to solicit further comments at the April 14th public hearing. At the March 10th public hearing, the Commission heard comments from two members of the task force and two members of the public who spoke in favor of adoption of the Plan.

On March 24th, the Commission held a work session to further discuss the Plan and developed a list of comments for the Taskforce to consider.

Mr. Ocel said the Commission is essentially in agreement with the Preservation Plan, with the exception of the "Plan Oversight" in that the Commission does not endorse the creation of the Fredericksburg Preservation Advisory Council.

Ms. Bea Paolucci, 1500 Caroline Street, said she has no issue with the majority of comments except the opposition to the formation of the Preservation Advisory Council, which she said she would address during the City Council meeting on this issue. She asked that the Commission vote on the Plan and move forward with its implementation.

Mr. Hamilton Palmer, 401 Charles Street (Business) and 1500 Caroline Street (Residence), said what he sees is a dynamic ordinance that can move forward and put historic properties in better shape and agreed that it should favorably move forward to City Council this evening.

Mr. Charles Rowe, 1605 Franklin Street, said he was speaking for the silent majority and that he understands the intent of the Preservation Plan is to preserve views. He said this is about telling the other guy what he has to do and believes that the city should let people work out things between themselves without the City being involved.

Being no further public comment, Mr. McAfee closed the public hearing on this item.

UNFINISHED BUSINESS/ACTION ITEMS

5. **SUP2010-02:** Johnson Development Associates, Inc. (The Haven) – Special Use permit request in order to construct 232 Multi-family residential units for lease located off of Gordon Shelton Blvd. directly behind the existing Virginia Credit Union within the Celebrate Virginia South development area (TM-312-A-P6). The property is zoned PD-C, Planned Development-Commercial, which requires a special use permit in order to construct residential uses. The property is designated as Planned Development-Commercial on the Future Land Use Map found within the 2007 Comprehensive Plan.

Mr. Mitchell said that he had recused himself from previous discussions on the subject item (SUP2010-02 – The Haven) due to what he believed may be a potential conflict of interest. However, he said, he has since talked with the Commonwealth's Attorney, who has determined that Mr. Mitchell has no conflict and may proceed with discussion and vote. Mr. Mitchell submitted a letter from the Commonwealth's Attorney for the record/file.

Mr. Ocel said Johnson Development Associates of South Carolina is the applicant requesting a special use permit to construct 232 apartment units on approximately 13.46 acres of land that is located west of Gordon Shelton Blvd. in the Celebrate Virginia South (CVS) development. Please see the color aerial plan showing the setting of the project within the surrounding area. The property is vacant and void of any mature vegetation.

At the March 31st meeting, the Commission received additional information from the applicant addressing the outstanding questions. *Please see the March 31st draft minutes for a complete review of the meeting deliberations.*

Several additional questions were raised by Commission members at the meeting which required staff to contact Mr. Burch for additional information. Mr. Burch has been out of the office and will return on April 12th so staff will follow up with him upon his return and provide the answers to the following questions posed at the April 14th meeting.

1. What is Mr. Burch's title? His title is Director of Operations for the school system.
2. Are the ratio's being used by the school system being realized?

3. Are the ratio's being used for the 2 & 3 bedroom units, being used for general or upscale units?

Additionally, staff previously requested the applicant to update the fiscal impact analysis utilizing the total expenditure figure stated in the budget. Dr. Fuller used a total expenditure figure of \$71,244,674 while the figure cited by the Assistant City Manager in the budget is \$65,071,366. While it appears to be a minor point in the analysis, using the Assistant City Manager's figure will lend some credence to the analysis.

Dr. Fuller noted that he would re-run the analysis with this figure, along with some additional information if staff wanted him to. With these numbers, he said could re-calculate the fiscal impact of the Haven in several hours. Staff requested that the applicant have Dr. Fuller re-run the analysis but the applicant stated that they stand by the analysis and would not have it updated. Therefore, staff is not in a position to recommend approval of the application without being able to evaluate all of the information. The application has merit and the units can provide additional higher end housing for rent near a major commercial center but the fiscal impact analysis should be revised to reflect actual City budget expenditures.

Mr. Ocel discussed how staff had arrived at the formula for the generation of school-aged children, although, he said, it is not a hard and fast rule. He provided an example of the generation of school-aged children in a similarly developed "upscale" project known as Riverside Manor.

Ms. Spears asked for clarification of where the Riverside Manor development is located and said she did not remember it being "upscale" to the same level as that of the subject property proposed this evening.

Dr. Gratz noted that he would be unable to support approval of this project based on many factors. He provided a detailed account in support of reason for denial of the special use permit (**Attachment A**).

Mr. Mitchell asked how long ago Celebrate Virginia South was approved.

Ms. Spears said it was rezoned by City Council on August 11, 1998.

Mr. Mitchell asked how long the 10% residential component has been part of the approved CVS/Central project.

Mr. Ocel said it has been a component of the overall "plan" for the area since the implementation of the ordinance, probably since the early 1990s.

Mr. Whelan asked if the 10% of residential development was by-right.

Mr. Ocel said it is only allowed by special use permit but that it has always been a component in the overall PDC zoning district.

Mr. Rigual said he had been made aware that the residential component has always been intended for this area as well.

Mr. Ocel said this was correct and that although the type of residential development may have changed it has always been a part of the overall plan.

Mr. Ramoneda said that when he considers that this use is only allowed by special use permit that the aim would be to have or allow the city to have some sort of control s to the "type of housing to be considered. He said that in his mind this only adds to "rental" housing.

Mr. Ramoneda also said he also finds it a hard reach that school-aged children generated from this development would be as low as the applicants suggest. He also said he appreciated Dr. Gratz' thorough evaluation.

Mr. Rigual asked for clarification of where the photos were from that were submitted with the application showing other similar projects by the applicants. He asked if the buildings themselves were "secure."

Mr. Ben Graves, applicant, said the gates are there to provide security and that there are "open breezeways" that allow access to the apartments.

Mr. Rigual addressed the gated community issue and said he is not bothered by this type of set up where people are able to access the apartments.

Mr. Whelan said he did not believe this community to be a typical "Gated Community."

Mr. Rigual made a motion to approve the special use permit with the conditions outlined in the staff report, with the exception of Condition #6.

Ms. Spears seconded the motion.

The following is a verbatim transcript provided by Mr. McAfee.

Mr. McAfee said "the first issue with the application is an easy one – No gates! After the yeah buts and spin is considered, he said, the Comp Plan is clear on why it expressly says "Do not allow gated communities in Policy #13.

The developer has said why they like the gate. I have seen nothing presented that would justify ignoring our own Planning document. In the last twenty years we have learned a lot about sprawl and community planning. The Mall is converting to a Town Center and the Spotsylvania Courthouse is trying to build something that appeals to peoples sense of place.

In the past, the developer has built 10 of these elsewhere. I can find no evidence that this site, region or our regulations, where considered for number eleven.

In granting a special use permit, I would like to see a well investigated and viable plan. What we have is a mass of contradictions. The developer says they will work with us to justify the differences on the fiscal impact study. Then they say "we are standing by the "original"." (See applicants response letter late March, early April).

The Developer says it is not an exclusive development, but says they must have two (2) gates.

The say it is upscale and well maintained, but they say it is affordable.

They say they will have upgraded appliances and then state they will be G.E.

They say they will use custom millwork and show us off the shelf details.

They promote the project as mixed use but provide a single use building that exists in isolation.

They say it is economically viable but offer no substantial reason to believe it is not another Cobblestone in a worse location.

With the build-out of Celebrate Virginia and new interchange, this area will become a gateway to the City and hundreds and thousands of people will be introduced to Fredericksburg here.

It may not look like much now, but planning is about the future.

A residential use here can be a good thing. However, this proposal is incompatible with the Comprehensive Plan.

In the view of one architectural critic "people yearn for an everyday environment worthy of our affection." This is what we have here in Fredericksburg and this is what we owe our children.

There were no further comments.

Mr. McAfee called for the vote.

The motion made by Mr. Rigual was to approve the special use permit, to include the conditions outlined in the Staff report with the exception of condition #6 pertaining to the vehicular gate.

Ms. Spears had seconded the motion.

Motion carried by a vote of 4 – 3, with Commissioners McAfee, Ramoneda and Gratz voting against the motion.

OTHER BUSINESS

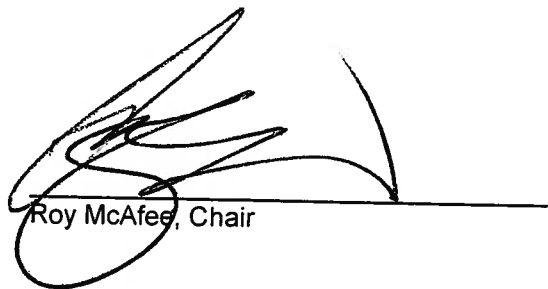
4. Planning Commissioner Comment

- Mr. McAfee said he had received a copy of a survey via Mr. Whelan to be submitted to Mr. Chandler (CPEAV). He said he would share this document with other Commissioners if they would like to provide input.

5. Planning Director Comment

- Mr. Ocel informed Commissioners that there will be upcoming work sessions relating to the relocation of Fire Station 1 and amendments that will need to be made to the Comprehensive Plan, relating to the relocation.
- Mr. Ocel informed Commissioners of upcoming agenda items for the month of May.
- Mr. Ocel provided an update of the Kalahari project and indicated that the project is moving forward.
- Mr. Ocel informed Commissioners of an upcoming Joint Public Hearing on May 25th with the City Council at its regular scheduled meeting at 7:30 p.m.

ADJOURNMENT



Roy McAfee, Chair

I can't support this application for a Special Use Permit (SUP) to build an apartment complex in Celebrate Virginia South at this time. I find that this project does not conform to our Comprehensive Plan, and I don't believe that it is in the best interests of Fredericksburg.

Fredericksburg's Comprehensive Plan was "prepared as a guide to decision-making¹" and as a "policy framework, establishing the context for decision-making on projects²." Furthermore, the Land Use Plan in Chapter 16 is "the foundation for projecting future population and employment growth³," and it "designates desirable future land use patterns⁴." Thus, I have used the Comprehensive Plan as a guide to my decision on this application.

This property is specifically addressed in several places in the Comprehensive Plan and, in no case, is any type of residential development mentioned. The land is zoned Planned Development/Commercial (PDC), which is "designed to encourage a wide range of commercial retail and service uses⁵" and "office and professional business development are also encouraged⁶." Although the Zoning Ordinance allows residential development in PDC districts, the Comprehensive Plan doesn't encourage it.

When Celebrate Virginia South (CVS) was rezoned from residential to PDC many years ago, it was promoted as an economic engine for Fredericksburg. It was pointed out how development under R4 zoning would have a negative impact on the City, requiring more services and schools to accommodate the increased population. The Comprehensive Plan calls the Central Park and CVS area "a major economic resource⁷" and envisions CVS "being developed as a major retail and hotel/conference center, to also include education and entertainment services⁸." The top priority initiative for suburban business districts is to "collaborate with the developer(s) of CVS to ensure the successful development and promotion of that tourism and retail campus⁹." The City was following this initiative when it provided incentives for Wegmans and the Kalahari Resort to locate in CVS.

Celebrate Virginia South gets its own section in Chapter 17 of the Comprehensive Plan, and again residential development is not mentioned. The first recommendation for Planning Area 1, which encompasses all of CVS, is to "facilitate the continued development of a regional commercial activity center, focusing on improving the City's position as a visitor destination¹⁰." None of the other nine recommendations mention residential uses.

The Special Use Permit application refers several times to CVS as "mixed use development¹¹." The Comprehensive Plan defines mixed-use development as

A building or development that incorporates two or more different uses such as, but not limited to, residential, office, retail, public, or entertainment. Vertical mixed-use developments incorporate a mix of uses within the same building, typically with different uses on different floors. Horizontal mixed-use developments incorporate a mix of different uses within different buildings in a common development.¹²

A bit of research came up with two other definitions of "mixed-use." Bayster defined mixed-use development "as different real estate uses combined on the same site in one development

project.¹³ Grant wrote that "the Urban Land Institute (1987) suggests that a mixed-use project develops according to a coherent plan with three or more functionally and *physically integrated* (emphasis added) revenue-producing uses.¹⁴" I don't believe that this project fits any of these definitions, and, certainly, when the Planning Commission was discussing the Planned Development - Mixed Use (PD-MU) zoning ordinance, we didn't envision an apartment complex next to a tourism/commercial development as "mixed-use."

Promoting owner-occupied housing is a major theme of the Comprehensive Plan. It points out that "almost 66% of households in Fredericksburg do not own their homes, and the City has identified increasing homeownership as a *critical* (emphasis added) public goal¹⁵." Another goal is to increase the stock of affordable housing in Fredericksburg. This project, advertised as a "high-end multi-family residential community¹⁶," doesn't fit either the goal of homeownership or the goal of increasing the stock of affordable housing.

The final item from the Comprehensive Plan that affects this proposal is the issue of gated communities. Housing Policy 13 clearly states, "Do not allow development of gated communities with controlled access¹⁷." Although I understand the reason for wanting to restrict access to this development, it is in conflict with the Comprehensive Plan.

Finally, there are several items in the Special Use Permit application that raised my concern. I noticed the small number of school-age children projected for this complex¹⁸ and noted that, if only three to five more children were included, the project would be a net drain on City resources by the applicant's own calculations. Although the staff analysis projecting 94 school-age children for the apartments may be on the high side, it is significantly higher than the applicant's estimate of 15-18 children. If the correct number turns out to be somewhere in between, this project will be a net loss to the City. Also, as the project ages, it is likely that there will be more children living there.

There were two items in the traffic assessment prepared by Wells and Associates that caught my attention. It was noted that the access road to this development "would be used to access planned adult (retirement) residential dwelling further west¹⁹." I am concerned that this economic engine for Fredericksburg may be morphing into a high-density residential development. Approving this project could open the door to further requests for residential development in what is supposed to be a commercial zone. Also, the map on page three of the traffic assessment indicates that the proposed toll road through this region would pass very close to these "high-end" apartments making them considerably less desirable due to noise and air pollution.

There may be a place for residential development in CVS after Kalahari is built and other commercial development is completed. I think it would be a mistake to put in residential before there is the commercial base to support the cost of increased services associated with housing. We can make a better judgment about the location of residential units in CVS after we see how it will be developed commercially. I would not want to see this area become a large-scale multi-family residential development, and that's not what the Comprehensive Plan envisions.

- 1 Fredericksburg Comprehensive Plan, Preface, page 5
- 2 Fredericksburg Comprehensive Plan, Preface, page 6
- 3 Fredericksburg Comprehensive Plan, Chapter 16, page 93
- 4 Fredericksburg Comprehensive Plan, Chapter 16, page 93
- 5 Fredericksburg Comprehensive Plan, Chapter 16, page 96
- 6 Fredericksburg Comprehensive Plan, Chapter 16, page 96
- 7 Fredericksburg Comprehensive Plan, Chapter 7, page 45
- 8 Fredericksburg Comprehensive Plan, Chapter 7, page 45
- 9 Fredericksburg Comprehensive Plan, Chapter 7, page 46
- 10 Fredericksburg Comprehensive Plan, Chapter 17, page 104
- 11 For example, The Haven, Special Use Permit Application, Narrative, page 8
- 12 Fredericksburg Comprehensive Plan, Glossary, page 168
- 13 A.P. Bayster, MS Thesis, MIT, 2005
- 14 Jill Grant, *Journal of the American Planning Association*, 68 (1), 71, 2002
- 15 Fredericksburg Comprehensive Plan, Chapter 13, page 80
- 16 The Haven, Special Use Permit Application, Narrative, page 2
- 17 Fredericksburg Comprehensive Plan, Chapter 13, page 81
- 18 The Haven, Special Use Permit Application, Attachment #5, page 1
- 19 The Haven, Special Use Permit Application, Attachment #3, page 1